

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

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MARGARET ANDERSON, as Personal Representative  
of the Estate of Derrick Burroughs, deceased,

Plaintiff,

v

Case No. 1:13-cv-00270-JTN  
Honorable Janet T. Neff

KALAMAZOO COUNTY and  
KALAMAZOO COUNTY COMMUNITY MENTAL  
HEALTH AND SUBSTANCE ABUSE SERVICES,  
a Political Subdivision,  
DEPUTY JAMES MILLER,  
SGT. JAMES DELABARRE, and  
AKI NEARCHO, Jail Clinician,  
in their official and individual capacities,

Defendants.

**PETITION FOR AUTHORITY  
TO SETTLE CLAIM AND  
DISTRIBUTE SETTLEMENT  
PROCEEDS**

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**PETITION FOR AUTHORITY TO SETTLE CLAIM  
AND DISTRIBUTE SETTLEMENT PROCEEDS**

Plaintiff, Margaret Anderson, co-personal representative of the estate of Derrick Burroughs, deceased, for her Petition for Authority to Settle Claim and Distribute Settlement Proceeds, pursuant to MCL 600.2922, states as follows:

1. Margaret Anderson was originally appointed personal representative of the estate of Derrick Burroughs, deceased, by the Kalamazoo County Probate Court on August 7, 2012. Furthermore, on January 28, 2013, Kimberly Coleman was appointed to act as co-personal representative of the estate.

2. On March 5, 2012, while in the custody of defendants, Derrick Burroughs committed suicide as a result of alleged unlawful conduct of the defendants. All defendants have denied any allegation of unlawful conduct and have asserted that plaintiff's decedent was the sole cause of his death.

3. The Estate of Derrick Burroughs retained the law firms of Robinson & Associates, P.C. and Gruel Mills Nims & Pylman PLLC to pursue a wrongful death/1983 Civil Rights Action arising from Derrick Burroughs' March 5, 2012 death by way of a written contingency fee agreement which complies with the mandates of MCR 8.121.

4. At the time of his death, Derrick Burroughs was a resident of Kalamazoo, Kalamazoo County, Michigan.

5. Surviving Derrick Burroughs are the following persons who may be entitled to damages pursuant to MCL 600.2922; MSA 27A.2922:

- a. C.B. (minor daughter)  
c/o Margaret Anderson, legal guardian  
2126 West Main  
Kalamazoo, MI 49006

- b. D.B., Jr. (minor son)  
c/o Margaret Anderson, legal guardian  
2126 West Main  
Kalamazoo, MI 49006
- c. K.C.B. (minor son)  
c/o Kimberly Coleman, mother  
642 S. Drake, Apt. W-3  
Kalamazoo, MI 49009
- d. Z.C.B. (minor son)  
c/o Kimberly Coleman, mother  
642 S. Drake, Apt. W-3  
Kalamazoo, MI 49009
- e. J.D.Z.P. (minor son)  
c/o RoseElla Lyke, legal guardian  
1231 Banbury Road  
Kalamazoo, MI 49001
- f. K.A.C.B. (putative minor son)  
c/o Kimberly Coleman, mother  
642 S. Drake, Apt. W-3  
Kalamazoo, MI 49009  
(A hearing to establish paternity is currently scheduled to be heard in the Kalamazoo County Probate Court on July 26, 2013. The petition and associated documents, appropriately redacted to maintain the privacy of the minors referenced therein, which were filed with the Kalamazoo County Probate Court are attached as Exhibit 1.)
- g. Sheila Burroughs (mother)  
25301 Montmartre, Apt 22  
Oak Park, MI 48237
- h. Kevin Bennett (father)  
2233 Baker Street  
Muskegon Heights, MI 49444
- i. Rico Burroughs (brother)  
602 McCourtie Street, Apt. 3  
Kalamazoo, MI 49008
- j. Brandon Brewer (brother)  
c/o Oakes Correctional Facility  
1500 Caberfae Highway  
Manistee, MI 49660

- k. Dwayne Brewer (brother)  
907 Lay Boulevard  
Kalamazoo, MI 49001
- l. Byron Burroughs (brother)  
907 Lay Boulevard  
Kalamazoo, MI 49001
- m. Jay Burroughs (brother)  
3544 Hathaway Road  
Kalamazoo, MI 49009
- n. Daisy and Acie Burroughs (maternal grandparents)  
907 Lay Boulevard  
Kalamazoo, MI 49001

6. Voluntary Facilitative Mediation was held on May 22, 2013 by mediator, Jon R. Muth. All parties and their appropriate representatives were present and an agreement was reached to settle this case for \$135,000.

7. The law firms of Robinson & Associates, P.C. and Gruel Mills Nims & Pylman PLLC request the sum of \$45,000, which will be apportioned between the two firms according to an existing agreement to satisfy all expenses and attorney fees incurred and owed to these firms or any other law firm, guardian ad litem or expert retained to advance the pending action and the estate matters pending in the Kalamazoo County Probate Court. If the fee agreement were to be enforced, the total costs and fee owed to plaintiff's counsel would exceed the petitioned sum. Further, the petitioned sum is in accordance with MCR 8.121 and the mandates of MRPC 1.5.

8. Plaintiff, after consulting with the custodial parent/legal guardians of decedent's minor children, requests that the court award equal sums payable to each child in the following manner:

C.B.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	

C.B.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to Margaret Anderson and is to be used exclusively for the support and/or education of the minor.)	
D.B., Jr.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	
D.B., Jr.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to Margaret Anderson and is to be used exclusively for the support and/or education of the minor.)	
K.C.B.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	
K.C.B.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to Kimberly Coleman and is to be used exclusively for the support and/or education of the minor.)	
Z.C.B.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	
Z.C.B.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to Kimberly Coleman and is to be used exclusively for the support and/or education of the minor.)	
K.A.C.B.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	
K.A.C.B.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to Kimberly Coleman and is to be used exclusively for the support and/or education of the minor.)	
J.D.Z.P.	\$13,000.00
(Amount to be invested in a guaranteed annuity contract.)	
J.D.Z.P.	\$ 2,000.00
(Pursuant to MCL 700.5102, this amount will be paid to RoseElla Lyke and is to be used exclusively for the support and/or education of the minor.)	

9. Pursuant to MCL 500.3108, all funeral and burial expenses incurred on behalf of decedent have been paid.

10. Plaintiff has petitioned this Court to appoint attorney Michael Richard Toburen (P77151) to act as the guardian ad litem for decedent's minor children and plaintiff anticipates a report will be submitted by attorney Toburen relative to the proposed settlement and distribution.

11. Plaintiff fully understands that such a settlement is intended to fully resolve this action and would forever discharge and release any claims the estate may have against these defendants.

12. As part of the settlement, plaintiff would enter into a settlement agreement and release on behalf of the estate and the heirs of the estate.

WHEREFORE, plaintiff, Margaret Anderson, co-personal representative of the estate of Derrick Burroughs, deceased, respectfully requests that this Honorable Court schedule a hearing to satisfy the mandates of MCL 600.2922 to allow the opportunity for those interested parties who may have not submitted a waiver/consent to come forward and voice their position to the Court. Petitioners are mindful of the Court's May 29, 2013 Order requesting plaintiff to file a motion or stipulation to approve the settlement and distribution no later than July 29, 2013. Therefore, the Court may wish to schedule the hearing for a reasonable time after July 26, 2013 to ensure the Kalamazoo County Probate Court proceeding for determination of heirship is fully adjudicated.

FURTHERMORE, plaintiff respectfully requests that this Honorable Court enter an order authorizing her to settle any and all claims the estate may have against defendants as a result of the alleged unlawful conduct and death of Derrick Burroughs and authorizing her to execute the settlement agreement and release and dismissing the above-captioned matter.

FURTHERMORE, petitioner respectfully requests that this Honorable Court grant her the authority to distribute the settlement proceeds as set forth in this petition or as otherwise deemed equitable by this Court.

GRUEL MILLS NIMS & PYLMAN PLLC  
Co-Counsel for Plaintiff

Dated: July 19, 2013

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